



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 00442-99

30 June 2000

LCDR [REDACTED] SC USN  
[REDACTED]  
[REDACTED]

Dear Commander [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 19 April and 7 May 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinion dated 19 April 1999 in finding no correction of your fitness report record was warranted. They did not find that the marks and comments of the fitness report for 31 August to 29 November 1985 to be inconsistent, and they observed that a reporting senior's observation need not be direct. They were unable to find your reporting senior did not have at least indirect observation of your performance for the entire period. Since they found no defect in your performance record, they had no grounds to remove your failure of selection before the Fiscal Year 99 Staff Commander Selection Board. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

442-99  
1611  
NPC-311  
19 April 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: NPC/BCNR Coordinator (NPC-00XCB)

Subj: LCDR [REDACTED], USN, [REDACTED]

Ref: (a) NAVMILPERSCOMINST 1611.1

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 31 August 1985 to 29 November 1985 and requests the board generate a not observed fitness report for the period 31 August 1985 to 12 November 1985 and add the period 13 November 1985 to 29 November 1985 to the fitness report for the period 30 November 1985 to 28 February 1986, or generate a not observed fitness report for the periods 31 August 1985 to 12 November 1985 and 13 November 1985 to 29 November 1985.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the fitness reports in question to be on file. Both reports are signed by the member acknowledging the contents of each report and his right to submit a statement. The member did not desire to submit a statement.

b. In accordance with reference (a), Section 1, paragraph 1-7.a states: "A reporting senior who is being relieved due to misconduct of unsatisfactory performance of duty shall not complete reports of fitness on officers under his/her command subsequent to being advised that such action has been initiated, even if it is later disapproved. Under such circumstances, the report of fitness, which normally would be completed by him/her, shall be completed by the officer next senior in the chain of command or by an officer designated in writing by such senior.

c. We cannot administratively change an observed report to a not observed report. Observed reports are desirable whenever any meaningful evaluation can be made. Not observed fitness reports are for extremely short periods of observation (normally 60 days or less).

d. The fitness report has been in Lieutenant Commander [REDACTED] record for over thirteen years. If the member felt the report was unjust or in error he could have submitted a statement for

inclusion in his record. Neither the member or the reporting senior has provided any explanation for failing to make any reasonable effort to correct the alleged errors before now.

e. The member has been promoted from LTJG to LCDR with the fitness report in his record. The fact that a fitness report may adversely affect a member's promotion opportunity is not sufficient reason to remove it from his record.

f. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

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Head, Performance  
Evaluation Branch



**DEPARTMENT OF THE NAVY**

**NAVY PERSONNEL COMMAND**

**5720 INTEGRITY DRIVE**

**MILLINGTON TN 38055-0000**

5420

Ser 85/065

7 May 99

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED] USN, [REDACTED]

Ref: (a) NPC-311 ltr 1611 of 19 Apr 99

Encl: (1) BCNR File

1. Enclosure (1) is returned recommending disapproval of LCDR [REDACTED] request for removal of his failure of selection resulting from the FY99 Active Commander Staff Promotion Selection Board. Reference (a) recommends retention of the fitness reports in question.

2. LCDR [REDACTED] did not show due diligence in submitting a statement to remove the reports in question. His record before the selection promotion board was complete and portrayed a fair and accurate portrayal of his career. Removal of the reports would not substantially improve the competitiveness of his record amongst his peers.

3. Recommend his request be denied.

[REDACTED]  
B [REDACTED]  
BCNR Liaison, Officer Promotions  
and Enlisted Advancements Division